



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2014-0910; FRL-9927-35-Region-3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Infrastructure Requirements for the 2010 Nitrogen Dioxide and 2012 Fine Particulate Matter National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving portions of two State Implementation Plan (SIP) revisions submitted by the Commonwealth of Pennsylvania through the Pennsylvania Department of Environmental Protection (PADEP) pursuant to the Clean Air Act (CAA). Whenever new or revised national ambient air quality standards (NAAQS) are promulgated, the CAA requires states to submit a plan for the implementation, maintenance, and enforcement of such NAAQS. The plan is required to address basic program elements, including, but not limited to regulatory structure, monitoring, modeling, legal authority, and adequate resources necessary to assure attainment and maintenance of the standards. These elements are referred to as infrastructure requirements. PADEP made two separate SIP submittals addressing the infrastructure requirements for the 2010 nitrogen dioxide (NO₂) NAAQS and the 2012 fine particulate matter (PM_{2.5}) NAAQS. In this rulemaking action, EPA is approving, in accordance with the requirements of the CAA, the two infrastructure SIP submissions with the exception of some portions of the submittals addressing visibility protection.

DATES: This final rule is effective on **[insert date 30 days after publication in the Federal**

Register].

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2014-0910. All documents in the docket are listed in the www.regulations.gov website. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittals are available at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania, 17105.

FOR FURTHER INFORMATION CONTACT: Rose Quinto, (215) 814-2182, or by e-mail at quinto.rose@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Summary of SIP Revision

On February 6, 2015 (80 FR 6672), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Pennsylvania proposing approval of Pennsylvania's SIP submittals to satisfy several requirements of section 110(a)(2) of the CAA for the 2010 NO₂ NAAQS and

2012 PM_{2.5} NAAQS.¹ In the NPR, EPA proposed approval of Pennsylvania's July 15, 2014 infrastructure SIP submittals for the 2010 NO₂ NAAQS and 2012 PM_{2.5} NAAQS for the following infrastructure elements in section 110(a)(2): (A), (B), (C), (D)(i)(II) (prevention of significant deterioration (PSD)), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M). Pennsylvania's July 15, 2014 SIP submittals for the 2010 NO₂ NAAQS and the 2012 PM_{2.5} NAAQS did not include any provisions addressing section 110(a)(2)(D)(i)(I) (interstate transport) or 110(a)(2)(I) (nonattainment plan requirements). Thus, EPA's NPR did not propose to approve the infrastructure SIP submittals for the 2010 NO₂ NAAQS or 2012 PM_{2.5} NAAQS for the requirements in section 110(a)(2)(D)(i)(I) or 110(a)(2)(I). Section 110(a)(2)(I) pertains to the nonattainment planning requirements of part D, Title I of the CAA, and therefore Pennsylvania was not required to submit anything for this element by the 3-year submission deadline of section 110(a)(1) for either the 2010 NO₂ NAAQS or 2012 PM_{2.5} NAAQS. The requirements of section 110(a)(2)(I) for these NAAQS will be addressed in a separate SIP process where appropriate. Section 110(a)(2)(D)(i)(I) pertains to interstate transport of emissions. EPA will take separate action for Pennsylvania concerning this element for the 2010 NO₂ NAAQS and 2012 PM_{2.5} NAAQS. Finally, Pennsylvania's July 15, 2014 infrastructure SIP submittals for the 2010 NO₂ NAAQS and 2012 PM_{2.5} NAAQS did include provisions addressing the visibility protection element in section 110(a)(2)(D)(i)(II) of the CAA; however, EPA's NPR did not propose to approve any of Pennsylvania's SIP submittals for the requirements in section 110(a)(2)(D)(i)(II) for visibility protection. EPA's NPR stated we would take separate action on the visibility protection element of section 110(a)(2)(D)(i)(II) submitted as part of the July 15,

¹ EPA's February 6, 2015 NPR also proposed approval of two other Pennsylvania SIP submittals dated July 15, 2014 which addressed certain requirements of section 110(a)(2) of the CAA for the 2008 ozone NAAQS and the 2010 sulfur dioxide (SO₂) NAAQS. In this rulemaking action, EPA is not taking final action on the Pennsylvania SIP submittals for the 2008 ozone NAAQS or 2010 SO₂ NAAQS. EPA will take final rulemaking action on those SIP submittals in a separate action.

2014 SIP submittals. Thus, this rulemaking does not take any final action on the July 15, 2014 infrastructure SIP submittals for section 110(a)(2)(D)(i)(II) (visibility protection) for the 2010 NO₂ NAAQS or the 2012 PM_{2.5} NAAQS.

In the NPR, EPA also proposed approval of Pennsylvania's July 15, 2014 SIP submittals for certain requirements of CAA section 110(a)(2) for the 2008 ozone and 2010 sulfur dioxide (SO₂) NAAQS. EPA will take separate final action on the proposed approval of Pennsylvania's infrastructure SIP submittals for the 2008 ozone and 2010 SO₂ NAAQS.

The rationale supporting EPA's approval of Pennsylvania's July 15, 2014 infrastructure SIP submittals for the 2010 NO₂ NAAQS and 2012 PM_{2.5} NAAQS, which address certain requirements of CAA section 110(a)(2), was explained in the NPR and the technical support document (TSD) accompanying the NPR and will not be restated here.² The TSD is available online at www.regulations.gov, Docket ID Number EPA-R03-OAR-2014-0910. EPA received no adverse comments on our proposed approval of Pennsylvania's infrastructure SIP submittals which address certain requirements in section 110(a)(2) for the 2010 NO₂ NAAQS and 2012 PM_{2.5} NAAQS as explained above.

II. Final Action

EPA is approving as a revision to the Pennsylvania SIP, Pennsylvania's July 15, 2014 infrastructure SIP submittals which provide the basic program elements specified in section 110(a)(2)(A), (B), (C), (D)(i)(II)(PSD), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M) of the

² The NPR also explained the scope of infrastructure SIPs in general and EPA's authority to act on specific elements of CAA section 110(a)(2) for a particular NAAQS in separate rulemaking actions.

CAA, necessary to implement, maintain, and enforce the 2010 NO₂ NAAQS and 2012 PM_{2.5} NAAQS. This rulemaking action does not include any rulemaking action on Pennsylvania's infrastructure SIP submittals for requirements in CAA section 110(a)(2)(D)(i)(I) (interstate transport) or (D)(i)(II) (visibility protection). EPA will address these requirements in section 110(a)(2)(D)(i)(I) and (D)(i)(II) (visibility protection) in separate actions. EPA will take final action on Pennsylvania's SIP submittals addressing infrastructure elements of CAA section 110(a)(2) for the 2008 ozone NAAQS and 2010 SO₂ NAAQS in a separate action. This rulemaking does not address requirements for section 110(a)(2)(I) for the 2010 NO₂ NAAQS or 2012 PM_{2.5} NAAQS as those requirements are due on a separate schedule and will be addressed in separate actions where necessary.

III. Statutory and Executive Order Reviews

A. General Requirements

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);

- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [Insert date 60 days from date of publication of this document in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action.

This action pertaining to Pennsylvania's section 110(a)(2) infrastructure elements for the 2010 NO₂ NAAQS and 2012 PM_{2.5} NAAQS may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR part 52

Environmental protection, Air pollution control, Incorporation by reference, Sulfur dioxide, Reporting and recordkeeping requirements.

Dated: April 21, 2015.

William C. Early, Acting
Regional Administrator,
Region III.

40 CFR part 52 is amended as follows:

PART 52 – APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart NN-- Pennsylvania

2. In § 52.2020, the table in paragraph (e)(1) is amended by adding two entries for Section 110(a)(2) Infrastructure Requirements for the 2010 NO₂ NAAQS and 2012 PM_{2.5} NAAQS at the end of the table to read as follows:

§ 52.2020 Identification of plan.

* * * *

(e) * * *

(1) * * *

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
* * * * *	* *			
Section 110(a)(2) Infrastructure Requirements for the 2010 NO ₂ NAAQS	Statewide	7/15/14	[Insert date of Federal Register publication] [Insert Federal Register citation]	This rulemaking action addresses the following CAA elements: 110(a)(2)(A), (B), (C), (D)(i)(II) (prevention of significant deterioration), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M).
Section 110(a)(2) Infrastructure Requirements for the 2012 PM _{2.5} NAAQS	Statewide	7/15/14	[Insert date of Federal Register publication] [Insert Federal Register citation]	This rulemaking action addresses the following CAA elements: 110(a)(2)(A), (B), (C), (D)(i)(II) (prevention of significant deterioration), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M).

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